

## Federal Acquisition Regulation

## Pt. 45

the policy in paragraph (a) of this section. Notwithstanding any other clause in the prime contract, only those clauses identified in the clause at 52.244-6 are required to be in subcontracts for commercial items or commercial components.

(c) Agencies may supplement the clause at 52.244-6 only as necessary to reflect agency unique statutes applicable to the acquisition of commercial items.

### 44.403 Contract clause.

The contracting officer shall insert the clause at 52.244-6, Subcontracts for Commercial Items, in solicitations and contracts other than those for commercial items.

[70 FR 11763, Mar. 9, 2005]

## PART 45—GOVERNMENT PROPERTY

Sec.

45.000 Scope of part.

### Subpart 45.1—General

- 45.101 Definitions.
- 45.102 Policy.
- 45.103 Responsibility and liability for Government property.
- 45.104 Review and correction of contractors' property control systems.
- 45.105 Records of Government property.
- 45.106 Government property clauses.

### Subpart 45.2—Competitive Advantage

- 45.201 General.
- 45.202 Evaluation procedures.
- 45.202-1 Rental equivalents.
- 45.202-2 Rent.
- 45.202-3 Other costs and savings.
- 45.203 Postaward utilization requests.
- 45.204 Residual value of special tooling and special test equipment.
- 45.205 Solicitation requirements.

### Subpart 45.3—Providing Government Property to Contractors

- 45.300 Scope of subpart.
- 45.301 Definitions.
- 45.302 Providing facilities.
- 45.302-1 Policy.
- 45.302-2 Facilities contracts.
- 45.302-3 Other contracts.
- 45.302-4 Contractor use of Government-owned and -operated test facilities.
- 45.302-5 Standby or layaway requirements.
- 45.302-6 Required Government property clauses for facilities contracts.

- 45.302-7 Optional property-related clauses for facilities contracts.
- 45.303 Providing material.
- 45.303-1 Policy.
- 45.303-2 Procedures.
- 45.304 Providing motor vehicles.
- 45.305 [Reserved]
- 45.306 Providing special tooling.
- 45.306-1 Providing existing special tooling.
- 45.306-2 Special tooling under cost-reimbursement contracts.
- 45.306-3 Special tooling under fixed-price contracts.
- 45.306-4 [Reserved]
- 45.306-5 Contract clause.
- 45.307 Providing special test equipment.
- 45.307-1 General.
- 45.307-2 Acquiring special test equipment.
- 45.307-3 Contract clause.
- 45.308 Providing Government production and research property "as is."
- 45.308-1 General.
- 45.308-2 Contract clause.
- 45.309 Providing Government production and research property under special restrictions.
- 45.310 Providing agency-peculiar property.
- 45.311 Providing Government property by transfer.

### Subpart 45.4—Contractor Use and Rental of Government Property

- 45.400 Scope of subpart.
- 45.401 Policy.
- 45.402 Authorizing use of Government production and research property.
- 45.403 Rental—Use and Charges clause.
- 45.404 Rent-free use.
- 45.405 Contracts with foreign governments or international organizations.
- 45.406 Use of Government production and research property on independent research and development programs.
- 45.407 Non-Government use of plant equipment.

### Subpart 45.5—Management of Government Property in the Possession of Contractors

- 45.500 Scope of subpart.
- 45.501 Definitions.
- 45.502 Contractor responsibility.
- 45.502-1 Receipts for Government property.
- 45.502-2 Discrepancies incident to shipment.
- 45.503 Relief from responsibility.
- 45.504 Contractor's liability.
- 45.505 Records and reports of Government property.
- 45.505-1 Basic information.
- 45.505-2 Records of pricing information.
- 45.505-3 Records of material.
- 45.505-4 Records of special tooling and special test equipment.
- 45.505-5 Records of plant equipment.
- 45.505-6 Special reports of plant equipment.

## 45.000

- 45.505-7 Records of real property.
- 45.505-8 Records of scrap or salvage.
- 45.505-9 Records of related data and information.
- 45.505-10 Records of completed products.
- 45.505-11 Records of transportation and installation costs of plant equipment.
- 45.505-12 Records of misdirected shipments.
- 45.505-13 Records of property returned for rework.
- 45.505-14 Reports of Government property.
- 45.506 Identification.
- 45.507 Segregation of Government property.
- 45.508 Physical inventories.
- 45.508-1 Inventories upon termination or completion.
- 45.508-2 Reporting results of inventories.
- 45.508-3 Quantitative and monetary control.
- 45.509 Care, maintenance, and use.
- 45.509-1 Contractor's maintenance program.
- 45.509-2 Use of Government property.
- 45.510 Property in possession of subcontractors.
- 45.511 Audit of property control system.

### Subpart 45.6—Reporting, Reutilization, and Disposal

- 45.600 Scope of subpart.
- 45.601 Definitions.
- 45.602 Reutilization of Government property.
- 45.602-1 Inventory disposal schedules.
- 45.602-2 Reutilization priorities.
- 45.602-3 Screening.
- 45.602-4 Interagency property transfer costs.
- 45.603 Abandonment, destruction or donation of excess personal property.
- 45.604 Disposal of surplus property.
- 45.604-1 Disposal methods.
- 45.604-2 Abandonment, destruction, or donation of surplus property.
- 45.604-3 Sale of surplus property.
- 45.604-4 Proceeds from sales of surplus property.
- 45.605 Inventory disposal reports.
- 45.606 Disposal of scrap.
- 45.606-1 Contractor with an approved scrap procedure.
- 45.606-2 Contractor without an approved scrap procedure.
- 45.606-3 Procedures.

AUTHORITY: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42392, Sept. 19, 1983, unless otherwise noted.

### 45.000 Scope of part.

This part prescribes policies and procedures for providing Government property to contractors, contractors' use and management of Government property, and reporting, redistributing, and disposing of contractor inventory.

## 48 CFR Ch. 1 (10-1-06 Edition)

It does not apply to providing property under any statutory leasing authority, except as to non-Government use of plant equipment under 45.407; to property to which the Government has acquired a lien or title solely because of partial, advance, or progress payments; or to disposal of real property.

### Subpart 45.1—General

#### 45.101 Definitions.

(a) *Contractor-acquired property*, as used in this part, means property acquired or otherwise provided by the contractor for performing a contract and to which the Government has title.

*Government-furnished property*, as used in this part, means property in the possession of, or directly acquired by, the Government and subsequently made available to the contractor.

*Government property* means all property owned by or leased to the Government or acquired by the Government under the terms of the contract. It includes both Government-furnished property and contractor-acquired property as defined in this section.

*Plant equipment*, as used in this part, means personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

*Property*, as used in this part, means all property, both real and personal. It includes facilities, material, special tooling, special test equipment, and agency-peculiar property.

*Real property*, as used in this part, means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or plant equipment.

*Special test equipment*, as used in this part, means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in performing a contract. It consists of

items or assemblies of equipment, including standard or general purpose items or components, that are interconnected and interdependent so as to become a new functional entity for special testing purposes. It does not include material, special tooling, facilities (except foundations and similar improvements necessary for installing special test equipment), and plant equipment items used for general plant testing purposes.

*Special tooling*, as used in this part, means jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, all components of these items, and replacement of these items, which are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or to the performance of particular services. It does not include material, special test equipment, facilities (except foundations and similar improvements necessary for installing special tooling), general or special machine tools, or similar capital items.

(b) Additional definitions also applying throughout this part appear in those subparts where the terms are most frequently used.

[48 FR 42392, Sept. 19, 1983, as amended at 51 FR 19716, May 30, 1986; 51 FR 33270, Sept. 19, 1986; 53 FR 27468, July 20, 1988]

#### 45.102 Policy.

Contractors are ordinarily required to furnish all property necessary to perform Government contracts. However, if contractors possess Government property, agencies shall—

(a) Eliminate to the maximum practical extent any competitive advantage that might arise from using such property;

(b) Require contractors to use Government property to the maximum practical extent in performing Government contracts;

(c) Permit the property to be used only when authorized;

(d) Charge appropriate rentals when the property is authorized for use on other than a rent-free basis;

(e) Require contractors to be responsible and accountable for, and keep the Government's official records of Gov-

ernment property in their possession or control (but see 45.105);

(f) Require contractors to review and provide justification for retaining Government property not currently in use; and

(g) Ensure maximum practical reutilization of Government property (see 45.602) within the Government.

[48 FR 42392, Sept. 19, 1983, as amended at 69 FR 17745, Apr. 5, 2004]

#### 45.103 Responsibility and liability for Government property.

(a) Contractors are responsible and liable for Government property in their possession, unless otherwise provided by the contract.

(b) Generally, Government contracts do not hold contractors liable for loss of or damage to Government property when the property is provided under—

(1) Negotiated fixed-price contracts for which the contract price is not based upon an exception at 15.403-1;

(2) Cost-reimbursement contracts;

(3) Facilities contracts; or

(4) Negotiated or sealed bid service contracts performed on a Government installation where the contracting officer determines that the contractor has little direct control over the Government property because it is located on a Government installation and is subject to accessibility by personnel other than the contractor's employees and that by placing the risk on the contractor, the cost of the contract would be substantially increased.

(c) When justified by the circumstances, the contract may require the contractor to assume greater liability for loss of or damage to Government property than that contemplated by the Government property clauses or the clause at 52.245-8, Liability for the Facilities. For example, this may be the case when the contractor is using Government property primarily for commercial work rather than Government work.

(d) If the Government provides Government property directly to a subcontractor, the terms of paragraph (b) above shall apply to the subcontractor.

(e) Subcontractors are liable for loss of or damage to Government property furnished through a prime contractor. However, if the prime contract is of a

type listed in subparagraph (b)(1) or (2) above, the prime contractor may, after obtaining the contracting officer's consent, reduce the subcontractor's liability by including in the subcontract a clause similar to paragraph (g), Limited risk of loss, as provided in *Alternate I* of the clause at 52.245-2, Government Property (Fixed-Price Contracts), (for fixed-price contracts) or similar to the same paragraph of the clause at 52.245-5, Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts) (for cost-reimbursement contracts). Before consenting to a clause that reduces the subcontractor's liability, the contracting officer should ensure that the Government's interests are sufficiently protected.

(f) A prime contractor that provides Government property to a subcontractor shall not be relieved of any responsibility to the Government that the prime contractor may have under the terms of the prime contract.

[48 FR 42392, Sept. 19, 1983, as amended at 53 FR 663, Jan. 11, 1988; 60 FR 48218, Sept. 18, 1995; 62 FR 51271, Sept. 30, 1997]

#### **45.104 Review and correction of contractors' property control systems.**

(a) The review and approval of a contractor's property control system shall be accomplished by the agency responsible for contract administration at a contractor's plant or installation. The review and approval of a contractor's property control system by one agency shall be binding on all other departments and agencies based on inter-agency agreements.

(b) The contracting officer or the representative assigned the responsibility as property administrator shall review contractors' property control systems to assure compliance with the Government property clauses of the contract.

(c) The property administrator shall notify the contractor in writing when its property control system does not comply with subpart 45.5 or other contract requirements and shall request prompt correction of deficiencies. If the contractor does not correct the deficiencies within a reasonable period, the property administrator shall request action by the contracting officer

administering the contract. The contracting officer shall—

(1) Notify the contractor in writing of any required corrections and establish a schedule for completion of actions;

(2) Caution the contractor that failure to take the required corrective actions within the time specified will result in withholding or withdrawing system approval; and

(3) Advise the contractor that its liability for loss of or damage to Government property may increase if approval is withheld or withdrawn.

#### **45.105 Records of Government property.**

(a) Contractor records of Government property established and maintained under the terms of the contract are the Government's official Government property records. Duplicate official records shall not be furnished to or maintained by Government personnel, except as provided in paragraph (b) below.

(b) Contracts may provide for the contracting office to maintain the Government's official Government property records when the contracting office retains contract administration and Government property is furnished to a contractor—(1) for repair or servicing and return to the shipping organization, (2) for use on a Government installation, (3) under a local support service contract, (4) under a contract with a short performance period, or (5) when otherwise determined by the contracting officer to be in the Government's interest.

[48 FR 42392, Sept. 19, 1983, as amended at 51 FR 2666, Jan. 17, 1986; 57 FR 60588, Dec. 21, 1992]

#### **45.106 Government property clauses.**

This section prescribes the principal Government property clauses. Other clauses pertaining to Government property are prescribed in subpart 45.3.

(a) The contracting officer shall insert the clause at 52.245-1, Property Records, in solicitations and contracts when the conditions in 45.105(b) exist and the Government maintains the Government's official Government property records.

(b)(1) The contracting officer shall insert the clause at 52.245-2, Government Property (Fixed-Price Contracts), in solicitations and contracts when a fixed-price contract is contemplated, except as provided in paragraphs (d) and (e) below.

(2) If the contract is—

(i) A negotiated fixed-price contract for which prices are not based on an exception at 15.403-1; or

(ii) A fixed-price service contract which is performed primarily on a Government installation, provided the contracting officer determines it to be in the best interest of the Government (see 45.103(b)(4)), the contracting officer shall use the clause with its *Alternate I*.

(3) If the contract is for the conduct of basic or applied research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research (see 35.014), the contracting officer shall use the clause with its *Alternate II*.

(c) The contracting officer shall insert the clause at 52.245-3, Identification of Government-Furnished Property, in addition to the clause at 52.245-2, Government Property (Fixed-Price Contracts), in solicitations and contracts when a fixed-price construction contract is contemplated under which the Government is to furnish Government property f.o.b. railroad cars at a specified destination or f.o.b. truck at the project site. The contract Schedule shall specify the point of delivery and may include special terms and conditions covering installation, preparation for operation, or equipment testing by the Government or by another contractor.

(d) The contracting officer may insert the clause at 52.245-4, Government-Furnished Property (Short Form), in solicitations and contracts when a fixed-price, time-and-material, or labor-hour contract is contemplated and the acquisition cost of all Government-furnished property to be involved in the contract is \$100,000 or less; unless a contract with an educational or nonprofit organization is contemplated.

(e) When the cost of the item to be repaired does not exceed the simplified acquisition threshold, purchase orders

for property repair need not include a Government property clause.

(f)(1) The contracting officer shall insert the clause at 52.245-5, Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts), in solicitations and contracts when a cost-reimbursement, time-and-material, or labor-hour contract is contemplated, except as provided in paragraph (d) above.

(2) If the contract is for the conduct of basic or applied research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research (see 35.014), the contracting officer shall use the clause with its *Alternate I*.

(g) The contracting officer shall insert the clause at 52.245-6, Liability for Government Property (Demolition Services), in addition to the clauses prescribed at 37.304, in solicitations and contracts for dismantling, demolition, or removal of improvements.

(h)(1) Insert the clause at 52.245-9, Use and Charges—

(i) In fixed-price or labor-hour solicitations and contracts under which the Government will furnish property for performance of the contract;

(ii) In all cost-reimbursement and time-and-materials solicitations and contracts; and

(iii) In solicitations and contracts when a consolidated facilities contract or a facilities use contract is contemplated.

(2) The contracting officer may modify the clause if an alternative rental methodology is used in accordance with 45.403.

[48 FR 42392, Sept. 19, 1983, as amended at 53 FR 663, Jan. 11, 1988; 57 FR 60588, Dec. 21, 1992; 60 FR 34760, July 3, 1995; 60 FR 48218, Sept. 18, 1995; 61 FR 39190, July 26, 1996; 62 FR 51271, Sept. 30, 1997; 70 FR 43584, July 27, 2005]

## Subpart 45.2—Competitive Advantage

### 45.201 General.

(a) The contracting officer shall, to the maximum practical extent, eliminate competitive advantage accruing to a contractor possessing Government production and research property (see 45.301). This is done by (1) adjusting the

offers of those contractors by applying, for evaluation purposes only, a rental equivalent evaluation factor or, (2) when adjusting offers is not practical, by charging the contractor rent for using the property. Applying a rental equivalent factor is not appropriate in awarding negotiated contracts when the contracting officer determines that using the factor would not affect the choice of contractors.

(b) In evaluating offers, the contracting officer shall also consider any costs or savings to the Government related to providing such property, regardless of any competitive advantage that may result (see 45.202-3).

#### **45.202 Evaluation procedures.**

##### **45.202-1 Rental equivalents.**

If a rental equivalent evaluation factor is used, it shall be equal to the rent allocable to the proposed contract that would otherwise have been charged for the property, as computed in accordance with the clause at 52.245-9, Use and Charges. (See 45.205(b) for solicitation requirements.)

##### **45.202-2 Rent.**

If using a rental equivalent evaluation factor is not practical, and the competitive advantage is to be eliminated by charging rent, any offeror or subcontractor may use Government production and research property after obtaining the written approval of the contracting officer having cognizance of the property. Rent shall be charged in accordance with 45.403.

##### **45.202-3 Other costs and savings.**

(a) If furnishing Government production and research property will result in direct measurable costs that the Government must bear, additional factors shall be considered in evaluating bids or proposals. These factors shall be specified in the solicitation either as dollar amounts or as formulas and shall be limited to the cost of—

- (1) Reactivation from storage;
- (2) Rehabilitation and conversion; and
- (3) Making the property available on an f.o.b. basis.

(b) If, under the terms of the solicitation, the contractor will bear the

transportation cost of furnishing Government production and research property or the cost of making it suitable for use (such as when property is offered on an *as is* basis (see 45.308)), no additional evaluation factors related to those costs shall be used.

(c) If using Government production and research property will result in measurable savings to the Government, the dollar amount of these savings shall be specified in the solicitation and used in evaluating offers. Examples of such savings include—

(1) Savings occurring as a direct result of activating tools being maintained in idle status at known cost to the Government; and

(2) Avoiding the costs of deactivating and placing tools in layaway or storage or of maintaining them in an idle state, if the prospective costs are known. For these costs to be included in the evaluation, firm decisions must have been made that the tools will be laid away or stored if not used on the proposed contract and that such costs are not merely being deferred.

##### **45.203 Postaward utilization requests.**

When, after award, a contractor requests the use of special tooling or special test equipment, the administrative contracting officer shall obtain a fair rental or other adequate consideration if use is authorized. The value of the items, if known, and any amount included for them in the contract price shall be considered.

##### **45.204 Residual value of special tooling and special test equipment.**

(a) In awarding competitively negotiated contracts that permit the acquisition of special tooling or special test equipment, an evaluation may be made of the residual value of the property to the Government. This evaluation is appropriate when the contracting officer (1) determines that the property will have a reasonably foreseeable usefulness and related residual value beyond the period of use on the proposed contract and (2) anticipates that the cost of the property (as proposed by the several offerors) may be a factor in making the award. This evaluation is not appropriate if the contract will include

the special tooling or special test equipment as a contract line item.

(b) The purpose of evaluating the residual value of special tooling or special test equipment is to apportion to each proposal only that part of the total cost of the property that represents the amount of useful life to be consumed during contract performance. Accordingly, the proposed price or cost may be reduced for evaluation purposes by an amount representing the residual value of such property to the Government. In estimating residual value, the contracting officer shall consider—

(1) The useful life of the special tooling and special test equipment to be acquired;

(2) Adaptability of the property for use by other contractors or by the Government;

(3) Reasonably foreseeable requirements for future use of the property; and

(4) The scrap or salvage value of the property.

(c) If the contracting officer decides to consider the residual value of special tooling or special test equipment, the solicitation shall so notify offerors and state the Government's reasonably foreseeable future requirements for the property.

#### **45.205 Solicitation requirements.**

(a) When Government production and research property (see 45.301) is offered for use in a competitive acquisition, solicitations will ordinarily require the contractor to assume all costs related to making the property available for use (such as payment of all transportation or rehabilitation costs).

(b) The solicitation shall describe the evaluation procedures to be followed, including rental charges or equivalents (see 45.202) and other costs or savings to be evaluated (see 45.202-3), and shall require all offerors to submit with their offers the following information:

(1) A list or description of all Government production and research property that the offeror or its subcontractors propose to use on a rent-free basis. The list shall include property offered for use in the solicitation, as well as property already in possession of the offer-

or and its subcontractors under other contracts.

(2) Identification of the facilities contract or other instrument under which property already in possession of the offeror and its subcontractors is held, and the written permission for its use from the contracting officer having cognizance of the property.

(3) The dates during which the property will be available for use (including the first, last, and all intervening months) and, for any property that will be used concurrently in performing two or more contracts, the amounts of the respective uses in sufficient detail to support proration of the rent.

(4) The amount of rent that would otherwise be charged, computed in accordance with 45.403.

(c) Solicitations shall provide that using Government production and research property (other than as described and permitted in the solicitation (see paragraph (b) above)) will not be authorized under the contract unless such use is approved in writing by the contracting officer cognizant of the property, and either rent calculated in accordance with the clause at 52.245-9, Use and Charges, is charged, or the contract price is reduced by an equivalent amount. (See 45.203 for postaward requests for special tooling and special test equipment and 45.204(c) for solicitation requirements for special tooling and special test equipment with residual value.)

### **Subpart 45.3—Providing Government Property to Contractors**

#### **45.300 Scope of subpart.**

This subpart prescribes policies and procedures for providing Government property to contractors.

#### **45.301 Definitions.**

*Agency-peculiar property*, as used in this subpart, means Government-owned personal property that is peculiar to the mission of one agency (e.g., military or space property). It excludes Government material, special test equipment, special tooling, and facilities.

*Facilities*, as used in this subpart and when used in other than a facilities

contract, means property used for production, maintenance, research, development, or testing. It includes plant equipment and real property (see 45.101). It does not include material, special test equipment, special tooling, or agency-peculiar property.

*Facilities contract*, as used in this subpart, means a contract under which Government facilities are provided to a contractor or subcontractor by the Government for use in connection with performing one or more related contracts for supplies or services. It is used occasionally to provide special tooling or special test equipment. Facilities contracts may take any of the following forms:

(a) A facilities acquisition contract providing for the acquisition, construction, and installation of facilities.

(b) A facilities use contract providing for the use, maintenance, accountability, and disposition of facilities.

(c) A consolidated facilities contract, which is a combination of a facilities acquisition and a facilities use contract.

*Government production and research property*, as used in this subpart, means Government-owned facilities, Government-owned special test equipment, and special tooling to which the Government has title or the right to acquire title.

*Material*, as used in this subpart, means property that may be incorporated into or attached to a deliverable end item or that may be consumed or expended in performing a contract. It includes assemblies, components, parts, raw and processed materials, and small tools and supplies that may be consumed in normal use in performing a contract.

*Nonprofit organization*, as used in this subpart, means any corporation, foundation, trust, or institution operated for scientific, educational, or medical purposes, not organized for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

*Nonseverable*, as used in this subpart, when related to Government production and research property, means property that cannot be removed after erection or installation without substantial loss of value or damage to the

property or to the premises where installed.

[48 FR 42392, Sept. 19, 1983, as amended at 57 FR 60589, Dec. 21, 1992]

#### **45.302 Providing facilities.**

##### **45.302-1 Policy.**

(a) Contractors shall furnish all facilities required for performing Government contracts except as provided in this subsection. Government facilities provided to contractors shall be individually identified in the solicitation, if possible, and contract. Agencies shall not furnish facilities to contractors for any purpose, including restoration, replacement, or modernization, except as follows:

(1) For use in a Government-owned, contractor-operated plant operated on a cost-plus-fee basis.

(2) For support of industrial preparedness programs.

(3) As components of special tooling or special test equipment acquired or fabricated at Government expense.

(4) When, as a result of the prospective contractor's written statement asserting inability to obtain facilities, the agency head or designee issues a Determination and Finding (see subpart 1.7) that the contract cannot be fulfilled by any other practical means or that it is in the public interest to provide the facilities.

(i) If the contractor's inability to provide facilities is due to insufficient lead time, the Government may provide existing facilities until the contractor's facilities can be installed.

(ii) Mere assertion by a contractor that it is unable to provide facilities is not, in itself, sufficient to justify approval. Appropriate Government officials must determine that providing Government facilities is justified.

(iii) The determination shall include findings that private financing of the facilities was sought but not available or that private financing was determined not advantageous to the Government. The determination shall also state that the contract cannot be accomplished without Government facilities being provided.

(iv) The original determination shall be included in the contract file.



## Federal Acquisition Regulation

## 45.302-3

(v) No determination is required when the facilities are provided as components of special tooling or special test equipment acquired or fabricated at Government expense.

(5) As otherwise authorized by law or regulation.

(b) Agencies shall not—

(1) Furnish new facilities to contractors unless existing Government-owned facilities are either inadequate or cannot be economically furnished;

(2) Use research and development funds to provide contractors with new construction or improvements of general utility, unless authorized by law; or

(3) Provide facilities to contractors solely for non-Government use, unless authorized by law.

(c) Competitive solicitations shall not include an offer by the Government to provide new facilities, nor shall solicitations offer to furnish existing Government facilities that must be moved into a contractor's plant, unless adequate price competition cannot be otherwise obtained. Such solicitations shall require contractors to identify the Government-owned facilities desired to be moved into their plants.

(d) Government facilities with a unit cost of less than \$10,000 shall not be provided to contractors unless—

(1) The contractor is a nonprofit institution of higher education or other nonprofit organization whose primary purpose is the conduct of scientific research;

(2) A contractor is operating a Government-owned plant on a cost-plus-fee basis;

(3) A contractor is performing on a Government establishment or installation;

(4) A contractor is performing under a contract specifying that it may acquire or fabricate special tooling, special test equipment, and components thereof subsequent to obtaining the approval of the contracting officer; or

(5) The facilities are unavailable from other than Government sources.

[48 FR 42392, Sept. 19, 1983, as amended at 54 FR 34756, Aug. 21, 1989]

### 45.302-2 Facilities contracts.

(a) Facilities shall be provided to a contractor or subcontractor only under

a facilities contract using the appropriate clauses required by 45.302-6, except as provided in 45.302-3.

(b) All facilities provided by a contracting activity for use by a contractor at any one plant or general location shall be governed by a single facilities contract, unless the contracting officer determines this to be impractical. Each agency should consolidate, to the maximum practical extent, its facility contracts covering specific contractor locations.

(c) No fee shall be allowed under a facilities contract. Profit or fee (plus or minus) shall be considered in awarding any related supply or service contract, consistent with the profit guidelines of 15.404-4.

(d) Special tooling and special test equipment will normally be provided to a contractor under a supply contract, but may be provided under a facilities contract when administratively desirable.

(e) Agencies shall ensure that facility projects involving real property transactions comply with applicable laws (e.g., 10 U.S.C. 2676 and 41 U.S.C. 12 and 14).

[48 FR 42392, Sept. 19, 1983, as amended at 62 FR 51271, Sept. 30, 1997]

### 45.302-3 Other contracts.

(a) Facilities may be provided to a contractor under a contract other than a facilities contract when one of the following exceptions applies:

(1) The actual or estimated cumulative acquisition cost of the facilities provided by the contracting activity to the contractor at one plant or general location does not exceed \$1,000,000;

(2) The number of items of plant equipment provided is ten or fewer;

(3) The contract performance period is twelve months or less;

(4) The contract is for construction;

(5) The contract is for services and the facilities are to be used in connection with the operation of a Government-owned plant or installation; or

(6) The contract is for work within an establishment or installation operated by the Government.

(b) When a facilities contract is not used, the Government's interest shall normally be protected by using the appropriate Government property clause

#### 45.302-4

or, in the case of subparagraph (a)(5) of this subsection, by appropriate portions of the facilities clauses.

(c) No profit or fee shall be allowed on the cost of the facilities when purchased for the account of the Government under other than a facilities contract. General purpose components of special tooling or special test equipment are not facilities.

[48 FR 42392, Sept. 19, 1983, as amended at 55 FR 52796, Dec. 21, 1990; 57 FR 60588, 60589, Dec. 21, 1992]

#### **45.302-4 Contractor use of Government-owned and -operated test facilities.**

(a) Agencies may authorize onsite use by contractors of existing Government-owned and -operated test facilities in connection with Government contracts only when—

(1) No adequate commercial test capability is available;

(2) Substantial cost savings will result from using the Government-owned test facilities; or

(3) Otherwise authorized by law.

(b) When such use is authorized, the contracting officer shall obtain adequate consideration comparable to commercial rates.

#### **45.302-5 Standby or layaway requirements.**

A facilities contract may include requirements for maintenance and storage of Government production and research property in standby or layaway status. The contract shall include appropriate specifications for the care and maintenance of the property. If the Government is required to pay the contractor for maintenance and storage, the contract shall define what constitutes standby or layaway and specify when payments will begin and end. The contract may provide for reimbursing the contractor for any State or local property tax it is required to pay because of its possession of or interest in such property (see 31.205-41).

#### **45.302-6 Required Government property clauses for facilities contracts.**

(a) The contracting officer shall insert the clause at 52.245-7, Government Property (Consolidated Facilities), in solicitations and contracts when a con-

#### 48 CFR Ch. 1 (10-1-06 Edition)

solidated facilities contract is contemplated (see 45.301).

(b) The contracting officer shall insert the clause at 52.245-8, Liability for the Facilities, in solicitations and contracts when a consolidated facilities contract, a facilities acquisition contract, or a facilities use contract is contemplated (see 45.301).

(c) The contracting officer shall insert the clause at 52.245-10, Government Property (Facilities Acquisition), in solicitations and contracts when a facilities acquisition contract is contemplated (see 45.301).

(d)(1) The contracting officer shall insert the clause at 52.245-11, Government Property (Facilities Use), in solicitations and contracts when a facilities use contract is contemplated (see 45.301).

(2) If the contract is for the conduct of basic or applied research at nonprofit institutions of higher education, or is awarded to a nonprofit organization whose primary purpose is the conduct of scientific research (see 35.014), the contracting officer shall use the clause with its *Alternate I*.

[48 FR 42392, Sept. 19, 1983, as amended at 70 FR 43584, July 27, 2005]

#### **45.302-7 Optional property-related clauses for facilities contracts.**

(a) The contracting officer may insert the clause at 52.245-12, Contract Purpose (Nonprofit Educational Institutions), in solicitations and contracts when a facilities use contract is contemplated and award may be made to a nonprofit educational institution (also see 45.302-6).

(b) The contracting officer may insert the clause at 52.245-13, Accountable Facilities (Nonprofit Educational Institutions), in solicitations and contracts when a facilities contract is contemplated and award may be made to a nonprofit educational institution (also see 45.302-6).

(c) The contracting officer may insert the clause at 52.245-14, Use of Government Facilities, in solicitations and contracts when a facilities use contract is contemplated and award may be made to a nonprofit educational institution (also see 45.302-6).

(d) The contracting officer may, under a proper delegation of authority,

## Federal Acquisition Regulation

## 45.306-2

insert the clause at 52.245-15, Transfer of Title to the Facilities, in solicitations and contracts when a consolidated facilities contract, a facilities acquisition contract, or a facilities use contract is contemplated for the conduct of basic or applied research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research (see 35.015 and 45.302-6).

(e) The contracting officer may insert the clause at 52.245-16, Facilities Equipment Modernization, in solicitations and contracts when a consolidated facilities contract, a facilities acquisition contract, or a facilities use contract is contemplated under which the Government will provide modernized or replacement facilities.

### 45.303 Providing material.

#### 45.303-1 Policy.

Contractors shall ordinarily furnish all material for performing Government contracts. However, agencies should provide material to a contractor when necessary to achieve significant economy, standardization, or expedited production, or when it is otherwise in the Government's interest.

#### 45.303-2 Procedures.

Solicitations shall specify material that the Government will furnish in sufficient detail (including requisitioning procedures) to enable offerors to evaluate it accurately. The contracting officer shall insert the appropriate Government property clause prescribed in 45.106, in all solicitations when the Government will provide material.

### 45.304 Providing motor vehicles.

(a) Contractors shall ordinarily furnish any motor vehicles needed in performing Government contracts. Agencies may provide contractors with motor vehicles only when—

(1) The number of vehicles required for use by contractor personnel is predictable and expected to remain fairly constant;

(2) The proposed contract will bear the entire cost of the vehicle program;

(3) The motor vehicles will not be used on any contract other than that for which the vehicles were provided, unless approved by the appropriate department or agency official;

(4) Prospective contractors do not have or would not be expected to have an existing and continuing capability for providing the vehicles from their own resources; and

(5) Substantial savings are expected.

(b) Agencies that provide contractors with Government-owned-or-leased motor vehicles are responsible for ensuring that such vehicles are used only for the performance of the contract. Under 41 CFR 101-38.301-1, contractors are prohibited from using such vehicles for home-to-work transportation consistent with Pub. L. 99-550 amending 31 U.S.C. 1344. (See subpart 51.2, Contractor Use of Interagency Fleet Management System (IFMS) Vehicles.)

[48 FR 42392, Sept. 19, 1983, as amended at 55 FR 52796, Dec. 21, 1990]

### 45.305 [Reserved]

### 45.306 Providing special tooling.

#### 45.306-1 Providing existing special tooling.

(a) The contracting officer shall offer existing Government special tooling to prospective contractors for use in Government work if it will not disrupt programs of equal or higher priority, it is otherwise advantageous to the Government, and use of the special tooling is authorized under 45.402(a). (See also 45.308 and 45.309.)

(b) Contracts authorizing the furnishing of existing special tooling shall contain a description of the special tooling, the terms and conditions of shipment, and the terms covering the cost of adapting and installing the tooling.

#### 45.306-2 Special tooling under cost-reimbursement contracts.

Title to special tooling under cost-reimbursement contracts is acquired by the Government in all cases. The clause used for this purpose is 52.245-5, Government Property (Cost-Reimbursement, Time-and-Material, or Labor-Hour Contracts).

[54 FR 48989, Nov. 28, 1989]

### 45.306-3

#### 45.306-3 Special tooling under fixed-price contracts.

(a) *Criteria for acquisition.* In deciding whether or not to acquire title to special tooling, or rights to title, under fixed-price contracts, the contracting officer shall consider the following factors:

(1) The current or probable future need of the Government for the items involved (including in-house use) and the estimated cost of producing them if not acquired.

(2) The estimated residual value of the items.

(3) The administrative burden and other expenses incident to reporting, recordkeeping, preparation, handling transportation, and storage.

(4) The feasibility and probable cost of making the items available to other offerors in the event of future acquisitions.

(5) The amount offered by the contractor for the right to retain the items.

(6) The affect on future competition and contract pricing.

(b) *Decision not to acquire special tooling.* In contracts in which the Government will not acquire title to special tooling, or rights to title, special requirements may be included in the Schedule of the contract (e.g., requirement governing the contractor's capitalization of special tooling costs).

[54 FR 48989, Nov. 28, 1989]

#### 45.306-4 [Reserved]

#### 45.306-5 Contract clause.

The contracting officer shall insert the clause at 52.245-17, Special Tooling, in solicitations and contracts when a fixed-price contract is contemplated, and either the contract will include special tooling provided by the Government or the Government will acquire title or right to title in special tooling to be acquired or fabricated by the contractor for the Government, other than special tooling to be delivered as an end item under the contract. The Special Tooling clause shall apply to all special tooling accountable to the contract.

[54 FR 48989, Nov. 28, 1989]

### 48 CFR Ch. 1 (10-1-06 Edition)

#### 45.307 Providing special test equipment.

##### 45.307-1 General.

(a) Contracting officers shall offer existing Government-owned special test equipment to contractors, consistent with the conditions in 45.306-1(a). (See also 45.308 and 45.309.)

(b) Contracting officers may also authorize contractors to acquire special test equipment for the Government when it is advantageous to the Government under the criteria in 45.306-3(a) and existing special test equipment is not available.

[48 FR 42392, Sept. 19, 1983, as amended at 54 FR 48990, Nov. 28, 1989]

##### 45.307-2 Acquiring special test equipment.

(a) When special test equipment or components are known, the solicitation (and the contract) shall separately identify each item to be furnished by the Government or acquired or fabricated by the contractor for the Government. Individual items of less than \$5,000 may be grouped by category.

(b) *Notice and approval.* Under negotiated contracts containing the clause at 52.245-18, Special Test Equipment, the contractor must notify the contracting officer if it intends to acquire or fabricate special test equipment. Within 30 days of receipt of the notice, the contracting officer shall—

(1) Review the proposed items for necessity and proper classification as *special* test equipment;

(2) Screen the availability of existing Government-owned test equipment in accordance with agency procedures; and

(3) Notify the contractor, approving or disapproving the acquisition or fabrication and, if it is disapproved, state whether the equipment will be furnished by the Government.

[48 FR 42392, Sept. 19, 1983, as amended at 57 FR 60588, Dec. 21, 1992]

##### 45.307-3 Contract clause.

The contracting officer shall insert the clause at 52.245-18, Special Test Equipment, in solicitations and contracts when contracting by negotiation

## Federal Acquisition Regulation

45.310

and the contractor will acquire or fabricate special test equipment for the Government but the exact identification of the special test equipment to be acquired or fabricated is unknown.

[54 FR 48990, Nov. 28, 1989]

### **45.308 Providing Government production and research property “as is.”**

#### **45.308-1 General.**

(a) The contracting officer may provide Government production and research property on an “as is” basis for performing fixed-price, time-and-material, and labor-hour contracts. It may also be furnished under a facilities contract, in which case the contract shall state that the contractor will not be reimbursed for transporting, installing, modifying, repairing, or otherwise making the property ready for use.

(b) When the property is provided under other than a facilities contract, the solicitation shall state that—

(1) Offerors may inspect the property before submitting offers and the conditions under which it may be inspected;

(2) The property is offered in its current condition, f.o.b. present location (provide specific locations);

(3) Offerors must satisfy themselves that the property is suitable for their use;

(4) The successful offeror shall bear the cost of transporting, installing, modifying, repairing, or otherwise making the property suitable for use; and

(5) Evaluations will be made in accordance with Subpart 45.2 to eliminate any competitive advantage resulting from using the property.

[54 FR 48990, Nov. 28, 1989]

#### **45.308-2 Contract clause.**

The contracting officer shall insert the clause at 52.245-19, Government Property Furnished “As Is,” in solicitations and contracts when a contract other than a consolidated facilities contract, a facilities acquisition contract, or a facilities use contract is contemplated and Government production and research property is to be furnished “as is” (see 45.106 for additional clauses that may be required).

[54 FR 48990, Nov. 28, 1989]

### **45.309 Providing Government production and research property under special restrictions.**

(a) Government production and research property, other than foundations and similar improvements necessary for installing special tooling, special test equipment, or plant equipment, shall not be installed or constructed on land not owned by the Government in such fashion as to be non-severable, unless the head of the contracting activity determines that the location is necessary, and the contract under which the property is provided contains—

(1) A requirement for the contractor to reimburse the Government for the fair value of the property at contract completion or termination or within a reasonable time thereafter (for example, the provision may require the contractor to purchase the property at a value determined by appraisal or at a price equal to its acquisition cost less depreciation at a specified rate);

(2) An option for the Government to acquire the underlying land; or

(3) An alternative provision that the agency head considers adequate to protect the Government’s interests.

(b) If patent or other proprietary rights of a contractor may restrict the disposal of Government production and research property, the condition in either paragraph (a)(1) or (a)(3) above shall be satisfied before the property is provided.

(c) If Government production and research property is not available to all offerors, the solicitation shall identify the offerors to whom the property is available.

### **45.310 Providing agency-peculiar property.**

(a) Agency-peculiar property may be furnished to contractors when necessary for use as a standard or model, for testing the contractor’s end item where suitable commercial equipment is not available, to establish equipment compatibility, or for other reasons that the contracting officer determines to be in the Government’s interest.

(b) Agency-peculiar property may be furnished under a facilities contract, a supply or service contract containing the appropriate Government Property

#### **45.311**

clause, or a special bailment agreement.

(c) Contracting officers shall provide special instructions for security, liability, maintenance, and/or property control, when agency-peculiar property requires special handling or safeguards.

#### **45.311 Providing Government property by transfer.**

Government property shall be transferred only if there is a requirement under the gaining contract. Transfers of Government property, as Government-furnished property, shall be documented by a modification to the gaining contract. A modification or other documentation listing all items of property transferred is required for the losing contract.

[59 FR 67054, Dec. 28, 1994]

### **Subpart 45.4—Contractor Use and Rental of Government Property**

#### **45.400 Scope of subpart.**

This subpart prescribes policies and procedures for contractor use and rental of Government production and research property.

#### **45.401 Policy.**

In performing Government contracts or subcontracts, Government production and research property in the possession of contractors or subcontractors shall be used to the greatest possible extent, provided that a competitive advantage is not conferred on the contractor or its subcontractors (see subpart 45.2). Prior approval of the contracting officer having cognizance of Government production and research property is required for any use, whether Government or non-Government, to ensure that the Government receives adequate consideration. Government use is defined as use in support of U.S. Government contacts and non-Government use is all other use (including direct commercial sales to domestic and foreign customers). As a general rule, Government use is on a rent-free basis. Non-Government use is on a rental basis. When Government production and research property is no longer required for the performance of Government contracts or subcontracts,

#### **48 CFR Ch. 1 (10–1–06 Edition)**

it shall not continue to be made available to a contractor for non-Government use.

[51 FR 19717, May 30, 1986]

#### **45.402 Authorizing use of Government production and research property.**

(a) Contracting officers who believe it to be in the Government's interest for a prospective contractor or subcontractor to use existing Government production and research property shall authorize such use in the contract. The contracting officer shall confirm the availability of the property before authorizing its use on either a rental or rent-free basis.

(b) Unless the solicitation provides for the successful offeror to use Government production and research property in the offeror's possession, the solicitation shall require any offeror desiring to use such property to request the written concurrence of the contracting officer cognizant of the property. To preclude a competitive advantage, the contracting officer's concurrence should include any information required by subpart 45.2.

(c) The contracting officer shall review the contractor's request for non-Government use of Government production and research property when the property is no longer required for performing Government contracts but is retained for spares or for mobilization and readiness requirements. (Also see 45.302–1(b)(3).)

#### **45.403 Rental—Use and Charges clause.**

(a) The contracting officer shall charge contractors rent for using Government production and research property, except as prescribed in 45.404 and 45.405. Rent shall be computed in accordance with the clause at 52.245–9, Use and Charges. If the agency head determines it to be in the Government's interest, an alternative method for computing rent may be used.

(b) The contracting officer shall ensure the collection of any rent due the Government from the contractor.

[70 FR 43584, July 27, 2005]

**45.404 Rent-free use.**

(a) The rental required by 45.403 above does not apply to the following Government production and research property:

(1) That which is located in Government-owned, contractor-operated plants operated on a cost-plus-fee basis (but see 45.405).

(2) That which is left in place or installed on contractor-owned property for mobilization or future Government production purposes. However, rent computed in accordance with 45.403(a) shall apply to that portion of property or its capacity used or authorized for use.

(3) Items of equipment that are part of a general program approved by the Federal Emergency Management Agency (FEMA) and present unusual problems in relation to the time required for their preparation for shipment, installation, and operation because of size, complexity, or performance characteristics.

(4) Any other Government production and research property that may be accepted by FEMA.

(b) The contracting officer cognizant of the Government production and research property may grant written authorization for rent-free use of production and research property in the possession of nonprofit organizations when used for research, development, or educational work and—

(1) The use of the property is directly or indirectly in the national interest;

(2) The property will not be used for the direct benefit of a profitmaking organization; and

(3) The Government receives some direct benefit (such as rights to use the results of the work without charge) from its use. As a minimum, the contractor shall furnish a report on the work for which the property was provided.

(c) If the contracting officer has obtained adequate price or other consideration, Government production and research property may also be used rent-free under—

(1) Prime contracts that specifically authorize such use without charge; and

(2) Subcontracts of any tier, if the contracting officer awarding the prime

contract has specifically authorized rent-free use by the subcontractor.

(d) After award, a contract may be modified to eliminate rent for using Government production and research property. In this case, the contract shall be equitably adjusted to reflect the elimination of rent and any other amount attributable thereto.

**45.405 Contracts with foreign governments or international organizations.**

Requests by, or for the benefit of, foreign governments or international organizations to use Government production and research property shall be processed and costs shall be recovered or rental charged in accordance with agency procedures.

**45.406 Use of Government production and research property on independent research and development programs.**

The contracting officer cognizant of Government production and research property in the possession of a contractor may authorize a contractor to use the property on an independent research and development (IR&D) program, if—

(a) Such use will not conflict with the primary use of the property or enable the contractor to retain property that could otherwise be released;

(b) The contractor agrees not to include as a charge against any Government contract the rental value of the property used on its IR&D program; and

(c) A rental charge for the portion of the contractor's IR&D program cost allocated to commercial work, computed in accordance with 45.403, is deducted from any agreed-upon Government share of the contractor's IR&D costs.

**45.407 Non-Government use of plant equipment.**

Requirements for authorization and dollar thresholds for non-Government use of specific types of plant equipment shall be set at the agency level. The following general policies and requirements shall be used by agencies in supplementing this section:

(a) The contracting officer's advance written approval shall be required for any non-Government use of active

plant equipment. Before authorizing non-Government use exceeding 25 percent, the contracting officer shall obtain approval of the head (or designee) of the agency that awarded the contract to which the property is accountable.

(b) The approvals under paragraph (a) above may be granted only when it is in the Government's interest—

(1) To keep the equipment in a high state of operational readiness through regular use;

(2) Because substantial savings to the Government would accrue through overhead cost-sharing and receipt of rental; or

(3) To avoid an inequity to a contractor who is required by the Government to retain the equipment in place.

(c) If the contractor's request for non-Government use in excess of 25 percent is approved, the contracting officer may require the contractor to insure the property against loss or damage. Facilities contracts may be modified to require such insurance.

### Subpart 45.5—Management of Government Property in the Possession of Contractors

#### 45.500 Scope of subpart.

This subpart prescribes the minimum requirements contractors must meet in establishing and maintaining control over Government property. It applies to contractors organized for profit and, except as otherwise noted, to non-profit organizations. In order for the special requirements in this subpart governing nonprofit organizations to apply, the contract must identify the contractor as a nonprofit organization. If there is any inconsistency between this subpart and the terms of the contract under which the Government property is provided, the terms of the contract shall govern.

#### 45.501 Definitions.

*Accessory item*, as used in this subpart, means an item that facilitates or enhances the operation of plant equipment but which is not essential for its operation.

*Agency-peculiar property* (see 45.301).

*Auxiliary item*, as used in this subpart, means an item without which the basic

unit of plant equipment cannot operate.

*Contractor-acquired property* (see 45.101).

*Custodial records*, as used in this subpart, means written memoranda of any kind, such as requisitions, issue hand receipts, tool checks, and stock record books, used to control items issued from tool cribs, tool rooms, and stockrooms.

*Discrepancies incident to shipment*, as used in this subpart, means all deficiencies incident to shipment of Government property to or from a contractor's facility whereby differences exist between the property purported to have been shipped and property actually received. Such deficiencies include loss, damage, destruction, improper status and condition coding, errors in identity or classification, and improper consignment.

*Facilities* (see 45.301).

*Government-furnished property* (see 45.101).

*Government property* (see 45.101).

*Individual item record*, as used in this subpart, means a separate card, form, document or specific line(s) of computer data used to account for one item of property.

*Material* (see 45.301).

*Nonprofit organization* (see 45.301).

*Plant equipment* (see 45.101).

*Property administrator*, as used in this subpart, means an authorized representative of the contracting officer assigned to administer the contract requirements and obligations relating to Government property.

*Real property* (see 45.101).

*Salvage*, as used in this subpart, means property that, because of its worn, damaged, deteriorated, or incomplete condition or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs, but has some value in excess of its scrap value.

*Special test equipment* (see 45.101).

*Special tooling* (see 45.101).

*Stock record*, as used in this subpart, means a perpetual inventory record which shows by nomenclature the quantities of each item received and issued and the balance on hand.



*Summary record*, as used in this subpart, means a separate card, form, document or specific line(s) of computer data used to account for multiple quantities of a line item of special tooling, special test equipment, or plant equipment costing less than \$5,000 per unit.

*Utility distribution system*, as used in this subpart, includes distribution and transmission lines, substations, or installed equipment forming an integral part of the system by which gas, water, steam, electricity, sewerage, or other utility services are transmitted between the outside building or structure in which the services are used and the point of origin, disposal, or connection with some other system. It does not include communication services.

*Work-in-process*, as used in this subpart, means material that has been released to manufacturing, engineering, design or other services under the contract and includes undelivered manufactured parts, assemblies, and products, either complete or incomplete.

[48 FR 42392, Sept. 19, 1983, as amended at 59 FR 11384, Mar. 10, 1994; 69 FR 17745, Apr. 5, 2004]

#### **45.502 Contractor responsibility.**

(a) The contractor is directly responsible and accountable for all Government property in accordance with the requirements of the contract. This includes Government property in the possession or control of a subcontractor. The contractor shall establish and maintain a system in accordance with this subpart to control, protect, preserve, and maintain all Government property. This property control system shall be in writing unless the property administrator determines that maintaining a written system is unnecessary. The system shall be reviewed and, if satisfactory, approved in writing by the property administrator.

(b) The contractor shall maintain and make available the records required by this subpart and account for all Government property until relieved of that responsibility. The contractor shall furnish all necessary data to substantiate any request for relief from responsibility.

(c)(1) The contractor shall be responsible for the control of Government property under this subpart 45.5 upon—

(i) Delivery of Government-furnished property into its custody or control;

(ii) Delivery, when property is purchased by the contractor and the contract calls for reimbursement by the Government (this requirement does not alter or modify contractual requirements relating to passage of title);

(iii) Approval of its claim for reimbursement by the Government or upon issuance for use in contract performance, whichever is earlier, of property withdrawn from contractor-owned stores and charged directly to the contract; or

(iv) Acceptance of title by the Government when title is acquired pursuant to specific contract clauses or as a result of change orders or contract termination.

(2) Property to which the Government has acquired a lien or title solely as a result of advance, progress, or partial payments is not subject to the requirements of this subpart.

(d) The contractor shall require subcontractors provided Government property under the prime contract to comply with the requirements of this subpart. Procedures for assuring subcontractor compliance shall be included in the contractor's property control system. Where the property administrator assigned to the contract has requested supporting property administration from another contract administration office, the contractor may accept the system approval of the supporting property administrator instead of performing duplicative actions to assure the subcontractor's compliance.

(e) If the property administrator finds any portion of the contractor's property control system to be inadequate, the contractor must take any necessary corrective action before the system can be approved. If the contractor and property administrator cannot agree regarding the adequacy of control and corrective action, the matter shall be referred to the contracting officer.

(f) When Government property (excluding misdirected shipments, see 45.505-12) is disclosed to be in the possession or control of the contractor but not provided under any contract, the contractor shall promptly (1) record

#### 45.502-1

such property according to the established property control procedure and (2) furnish to the property administrator all known circumstances and data pertaining to its receipt and a statement as to whether there is a need for its retention.

(g) The contractor shall promptly report all Government property in excess of the amounts needed to complete full performance under the contracts providing it or authorizing its use.

(h) When unrecorded Government property is found, both the cause of the discrepancy and actions taken or needed to prevent recurrence shall be determined and reported to the property administrator.

[48 FR 42392, Sept. 19, 1983, as amended at 51 FR 2666, Jan. 17, 1986]

#### 45.502-1 Receipts for Government property.

The contractor shall furnish written receipts for all or specified classes of Government property only when the property administrator deems it essential for maintaining minimum acceptable property controls. If evidence of receipt is required for contractor-acquired property, the contractor shall provide it before submitting its request for payment for the property. For Government-furnished property, the contractor shall provide the required receipt immediately upon receipt of the property.

#### 45.502-2 Discrepancies incident to shipment.

(a) *Government-furnished property.* If overages, shortages, or damages are discovered upon receipt of Government-furnished property, the contractor shall provide a statement of the condition and apparent causes to the property administrator and to other activities specified in the approved property control system. Only that quantity of property actually received will be recorded on the official records.

(b) *Contractor-acquired property.* The contractor shall take all actions necessary in adjusting overages, shortages, or damages in shipment of contractor-acquired property from a vendor or supplier. However, when the shipment has moved by Government

#### 48 CFR Ch. 1 (10-1-06 Edition)

bill of lading and carrier liability is indicated, the contractor shall report the discrepancy in accordance with paragraph (a) above.

#### 45.503 Relief from responsibility.

(a) Unless the contract or contracting officer provides otherwise, the contractor shall be relieved of property control responsibility for Government property by—

(1) Reasonable and proper consumption of property in the performance of the contract as determined by the property administrator;

(2) Retention by the contractor, with the approval of the contracting officer, of property for which the Government has received consideration;

(3) The authorized sale of property, provided the proceeds are received by or credited to the Government;

(4) Shipment from the contractor's plant, under Government instructions, except when shipment is to a subcontractor or other location of the contractor; or

(5) A determination by the contracting officer of the contractor's liability for any property that is lost, damaged, destroyed, or consumed in excess of that normally anticipated in a manufacturing or processing operation, if—

(i) The determination is furnished to the contractor in writing;

(ii) The Government is reimbursed where required by the determination; and

(iii) Property rendered unserviceable by damage is properly disposed of, and the determination is cross-referenced to the shipping or other documents evidencing disposal.

(b) Nonprofit organizations are relieved of responsibility for Government property when title to the property is transferred to the contractor (see 35.014).

#### 45.504 Contractor's liability.

(a) Subject to the terms of the contract and the circumstances surrounding the particular case, the contractor may be liable for shortages, loss, damages, or destruction of Government property. The contractor may

## Federal Acquisition Regulation

## 45.505-1

also be liable when the use or consumption of Government property unreasonably exceeds the allowances provided for by the contract, the bill of material, or other appropriate criteria.

(b) The contractor shall investigate and report to the property administrator all cases of loss, damage, or destruction of Government property in its possession or control as soon as the facts become known or when requested by the property administrator. A report shall also be furnished when completed and accepted products or end items are lost, damaged, or destroyed while in the contractor's possession or control.

(c) The contractor shall require any of its subcontractors possessing or controlling Government property accountable under the contract to investigate and report all instances of loss, damage, or destruction of such property.

### **45.505 Records and reports of Government property.**

(a) The contractor's property control records shall constitute the Government's official property records unless an exception has been authorized. The contractor shall establish and maintain adequate control records for all Government property, including property provided to and in the possession or control of a subcontractor. The property control records specified in this section are the minimum required by the Government. Unless the property administrator directs otherwise, when a subcontractor has an approved property control system for Government property provided under its own prime contracts, the contractor shall use the records created and maintained under that system.

(b) The contractor's property control system shall provide financial accounts for Government-owned property in the contractor's possession or control. The system shall be subject to internal control standards and be supported by property records for such property.

(c) Official Government property records must identify all Government property and provide a complete, current, auditable record of all transactions. The contractor's system of records maintenance shall be sufficient to adequately control Government

property as required by this section. The contractor's system of records maintenance, as a minimum, shall be equivalent to and maintained in the same manner as the contractor's system for maintaining records of contractor-owned property, but need not exceed the requirements of this subpart. The records shall be safeguarded from tampering or destruction. Records shall be accessible to authorized Government personnel.

(d) Separate property records for each contract are desirable, but a consolidated property record may be maintained if it provides the required information.

(e) Special tooling and special test equipment fabricated from materials that are the property of the Government shall be recorded as Government-owned immediately upon fabrication. Special tooling and special test equipment fabricated from materials that are the property of the contractor shall be recorded as Government property at the time title passes to the Government.

(f) Property records of the type established for components acquired separately shall be used for serviceable components permanently removed from items of Government property as a result of modification.

(g) The contractor's property control system shall contain a system or technique to locate any item of Government property within a reasonable period of time.

[48 FR 42392, Sept. 19, 1983, as amended at 53 FR 43394, Oct. 26, 1988]

### **45.505-1 Basic information.**

(a) Unless summary records are used as authorized under paragraph (b) of this section, the contractor's property control records shall provide the following basic information for every item of Government property in the contractor's possession, regardless of value (other subsections of 45.505 require additional information for specific categories of Government property):

(1) The name, description, and National Stock Number (if furnished by the Government or available in the property control system).

(2) Quantity received (or fabricated), issued, and on hand.

(3) Unit price (and unit of measure).

(4) Contract number or equivalent code designation.

(5) Location.

(6) Disposition.

(7) Posting reference and date of transaction.

(b) Summary records are normally adequate for special tooling, special test equipment, and plant equipment costing less than \$5,000 per unit, except where the contract administration office determines that individual item records are necessary for effective control, calibration, or maintenance. Summary records shall provide the information listed in paragraphs (a)(1) through (a)(7) of this section, but may reference a general location, provided the contractor can locate the property within a reasonable period of time.

[48 FR 42392, Sept. 19, 1983, as amended at 59 FR 11384, Mar. 10, 1994]

#### 45.505-2 Records of pricing information.

(a) *Requirement for unit prices.* (1) The contractor's property control system shall contain the unit price for each item of Government property except as provided in (b) below. When a contractor records the unit price of property on other than the quantitative inventory records, those supplementary records shall become part of the official Government property records.

(2) *(Note: This subparagraph (2) does not apply to nonprofit organizations.)* The requirement that unit prices be contained in the official Government property records does not apply to those separate property records located at a contractor's secondary sites and subcontractor plants; *provided*, that—

(i) Records maintained by the prime contractor at its primary site include unit prices; and

(ii) The prime contractor agrees to furnish actual or estimated unit prices to the secondary site or subcontractor as the need arises.

(3) When definite information as to unit price cannot be obtained, reasonable estimates will be used.

(b) *Determining unit price—(1) Contractor-acquired and contractor-fabricated property.* Except for items fab-

ricated by nonprofit organizations for research and development purposes, the unit price of contractor-acquired and contractor-fabricated property shall be determined in accordance with the system established by the contractor in conformance with consistently applied sound accounting principles. Generally, separate unit prices should be applied to items of special tooling and special test equipment fabricated or acquired by the contractor. However, if the contractor's accounting system is acceptable, and if maintaining detailed cost records results in excessive accounting cost or is otherwise impracticable, group pricing may be used for special tooling, special test equipment, and work-in-process in accordance with the contractor's acceptable cost accounting system. All processed material, fabricated parts, components, and assemblies charged to the contractor's work-in-process inventory, including items in temporary storage while awaiting processing, may be considered as work-in-process for this purpose.

(2) *Government-furnished property.* The Government shall determine and furnish to the contractor the unit price of Government-furnished property. Transportation and installation costs shall not generally be considered as part of the unit price for this purpose. Normally, the unit price of Government-furnished property will be provided on the document covering shipment of the property to the contractor. In the event the unit price is not provided on the document, the contractor will take action to obtain the information.

#### 45.505-3 Records of material.

(a) *General.* All Government material furnished to the contractor, as well as other material to which title has passed to the Government by reason of allocation from contractor-owned stores or purchase by the contractor for direct charge to a Government contract or otherwise, shall be recorded in accordance with the contractor's property control system and the requirements of this section.

(b) *Consolidated stock record.* When a contractor has more than one Government contract under which Government material is provided, a consolidated record for materials may be authorized by the property administrator, *provided*, the total quantity of any item is allocated to each contract by contract number and each requisition of material from contractor-owned stores is charged to the contract on which the material is to be used. The supporting document or issue slip shall show the contract number or equivalent code designation to which the issue is charged.

(c) *Custodial records.* The contractor shall maintain custodial records for tool crib items, guard force items, protective clothing, and other items issued to individuals for use in their work.

(d) *Use of receipt and issue documents.* (Note: This paragraph (d) does not apply to nonprofit organizations.) The property administrator may authorize the contractor to maintain, in lieu of stock records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of Government-provided material that is issued for immediate consumption and is not entered in the inventory record as a matter of sound business practice. This method of control may be authorized for—

(1) Material charged through overhead;

(2) Material under research and development contracts;

(3) Subcontracted or outside production items;

(4) Nonstock or special items;

(5) Items that are produced for direct charge to a contract, or are acquired and issued for installation upon receipt, and involve no spoilage; and

(6) Items issued from contractor-owned inventory direct to production or maintenance, etc.

(e) *Material issued directly upon receipt.* (Note: This paragraph (e) applies only to nonprofit organizations.)

(1) Under fixed-price contracts, the contractor's documents evidencing receipt and issue will be accepted as property control records for Government-furnished material issued directly by the contractor upon receipt

so as to be considered consumed under the contract.

(2) Under cost-reimbursement contracts, Government invoices, contractor's purchase documents, or other evidence of acquisition and issue will be accepted as adequate property records for material furnished to or acquired by the contractor and issued directly so as to be considered consumed under the contract.

(f) *Multicontract cost and material control.* (Note: This paragraph (f) does not apply to nonprofit organizations.) (1) *Description and scope.* A multicontract cost and material control system substitutes a system of financial accounting for the requirements for physical identification of Government material. The system operates as follows:

(i) The contractor may acquire, requisition, receive, store, and issue like items of material for the total requirements of all contracts involved in the system without identifying the material to each contract.

(ii) The contractor may commingle, during any stage of contract performance, Government-owned and contractor-owned material and work-in-process that was furnished, acquired, or produced for all Government contracts covered by the system, without physical segregation or identification to the individual contracts.

(iii) In lieu of physical segregation and identification to individual contracts, periodic calculation of requirements and distribution of costs to all contracts permits the allocation of costs of material to products delivered. This system, by reflecting the material expended to perform each contract at any stage in production, permits usage analysis to determine the reasonableness of consumption and expenditure of Government material.

(iv) The system may include all Government contracts of any type that involve common repetitive operations.

(v) The system does not require commingling of all common materials under all contracts. For example, items of Government-furnished material of high value or in short supply may be excluded from commingling and reserved for use in performing the contract under which furnished.

(vi) The contractor shall take physical inventories of material in stores included in the systems (other than work-in-process) at least annually, extend and reconcile prices to the quantitative balance for each item, and record adjustments in the stock record and financial inventory control accounts. Such physical inventories and adjustments, as well as equitable distribution to cost accounts of any inventory losses, shall be reviewed by and are subject to the approval of the property administrator.

(2) *Criteria.* A multicontract cost and material control system may be authorized if—

(i) The contractor demonstrates that adopting the system will result in savings or improved operations or that it will otherwise be in the Government's interest;

(ii) The system is applied to existing Government contracts only and excludes materials acquired or costs incurred for non-Government work or in anticipation of future Government work; and

(iii) The contractor's accounting system is adequate to—

(A) Provide on a complete and timely basis a clear *audit trail* from costs of materials acquired for each contract to materials used or disposed of on each contract;

(B) Reflect separately for Government-furnished and contractor-acquired material in stores (except work-in-process) the inventory balances as affected by receipts, issues, adjustments, and other dispositions;

(C) Determine unit costs for each identifiable part, component, sub-assembly, assembly, end item, and contract item;

(D) Calculate amounts for cost reimbursements and progress payments during the life of the contract by applying or allocating such unit costs developed through each stage of work-in-process to contract items for the requirements of each contract; and

(E) Assure that when Government material furnished for use under one contract is authorized for use on another contract, the initial contract receives credit.

(3) *Authorization.* The administrative contracting officer may authorize a

contractor who is performing or will perform more than one Government contract to use the multicontract cost and material control system. The property administrator shall approve whatever detailed operating procedures are necessary for each system authorized.

(4) *Requirement.* Whenever a multicontract cost and material control system is authorized, the contractor's financial accounts shall include all material in the system acquired or furnished for Government work and shall satisfy the requirements in subdivision (f)(2)(iii) of 45.505-3 above.

#### **45.505-4 Records of special tooling and special test equipment.**

(Note: The special tooling requirements of this subsection 45.505-4 do not apply to nonprofit organizations except for paragraph (c).)

(a) Unless summary records are used as authorized under 45.505-1(b), the contractor's property control system shall provide the basic information listed in 45.505-1(a) regarding each item of Government-owned special tooling and special test equipment, including any general purpose test equipment incorporated as components in such a manner that removal and reuse may be feasible and economical.

(b) If the contractor uses group pricing of special tooling or special test equipment, as recognized in 45.505-2(b), unit prices may be computed when required.

(c) In the case of special tooling acquired or fabricated by nonprofit organizations or furnished by the Government to nonprofit organizations for research and development, the Government invoices, contractor's purchase document, or other documents that evidence acquisition or issue will be accepted as adequate property control records.

(d) Records identifying special tooling and special test equipment shall include the identification number and item on which used.

(e) The contractor shall, when specified by the contract, identify and report special tooling and special test equipment by retention category (e.g.,

## Federal Acquisition Regulation

## 45.505-7

assembly tooling or critical tooling for spares or replacements).

[48 FR 42392, Sept. 19, 1983, as amended at 59 FR 11384, Mar. 10, 1994]

### 45.505-5 Records of plant equipment.

(a) Unless summary records are used as authorized under 45.505-1(b), the contractor shall maintain individual item records for each item of plant equipment.

(b) In addition to the information required in 45.505-1, the contractor's records of Government-owned plant equipment, regardless of value, shall include—

(1) Federal Supply Code for the manufacturer (as listed in Cataloging Handbook H4-1 and H4-2) (available from the Superintendent of Documents, Government Printing Office (GPO), Washington, D.C. 20402);

(2) Federal Supply Classification (Cataloging Handbooks H2-1, H2-2, and H2-3) (available from GPO); and

(3) The original manufacturer's model or part number.

(c) For each item of Government-owned plant equipment having a unit cost of \$5,000 or more, the contractor shall, in addition to the requirements of (b) above, include—

(1) Serial number and year built (when available);

(2) Government identification/tag number; and

(3) Acquisition and disposition document references and dates.

(d) The property administrator may determine that the information in (c)(1) and (2) above should be recorded in the property records for plant equipment costing less than \$5,000.

(e) Accessory and auxiliary equipment shall be recorded on the record of the associated item of plant equipment. If the accessory or auxiliary item is not attached to, a part of, or acquired for use with a specific item of plant equipment, it shall be recorded either in an individual item record or in a summary stock record. When accessory and auxiliary items are permanently separated from the basic item of plant equipment, the unit price of the basic item shall be appropriately reduced.

[48 FR 42392, Sept. 19, 1983, as amended at 59 FR 11384, Mar. 10, 1994]

### 45.505-6 Special reports of plant equipment.

An agency may set requirements for any special reports of plant equipment it determines necessary.

### 45.505-7 Records of real property.

(a) The contractor shall maintain an itemized record of the description, location, acquisition cost, and disposition of all Government real property (including unimproved real property); all alterations, all construction work, and sites connected with such alteration and construction, acquired by purchase, lease, or otherwise. These records, including maps, drawings, plans, specifications, and supplementary data where necessary, shall (1) be complete, (2) show the original cost of the property and improvements and the cost of any changes and additions, and (3) be appropriately indexed.

(b) Costs incurred by the contractor or the Government for new construction, including erection, installation, or assembly of Government real property in possession of the contractor, shall be capitalized in the official Government real property records and financial accounts maintained by the contractor for the Government.

(c) Costs incurred for additions, expansions, extensions, conversions, alterations, and improvements, including applicable portions of capital maintenance, that increase the value, life, utility, capability, or serviceability of Government real property shall be capitalized.

(d) Costs incurred for portable buildings or facilities specifically constructed for tests that involve destruction of the facility shall not be capitalized in the Government real property records or financial accounts.

(e) Costs incurred for maintenance, repair, or rearrangement to maintain the Government real property in good physical condition, utility, capacity, or serviceability shall be charged to expense, and the real property records shall not be affected.

(f) When Government-owned real property is sold, transferred, donated, destroyed by fire or other cause, abandoned-in-place, or condemned, the financial accounts shall be reduced by the presently recorded cost and the

#### 45.505-8

real property records annotated with a supporting statement, including pertinent facts.

#### 45.505-8 Records of scrap or salvage.

(a) The contractor shall maintain records of all scrap or salvage generated, except as provided in 45.507. These records shall conform to the contractor's established system of scrap and salvage control approved by the property administrator.

(b) The contractor's property control system shall provide the following information:

(1) Contract number, if practical, or equivalent code designation from which the scrap or salvage derived.

(2) Nomenclature or description of salvable items or classification (material content) of scrap.

(3) Quantity on hand.

(4) Posting reference and date of transaction.

(5) Disposition.

#### 45.505-9 Records of related data and information.

The contractor shall maintain property control and accountability, in accordance with sound business practice, of manufacturing or assembly drawings; installation, operation, repair, or maintenance instructions; and other similar information furnished to the contractor by the Government or generated or acquired by the contractor under the contract and for which title vests in the Government. The requirements of this subpart do not otherwise apply to such property.

#### 45.505-10 Records of completed products.

The contractor shall maintain a record of all completed products produced under a contract as follows:

(a) When there is no time lapse between Government inspection and acceptance of the completed products and shipment from the plant site, the records shall, as a minimum, consist of a summary of quantities accepted and shipped. When end items are accepted by the Government and stored with the contractor awaiting shipment, the record shall identify quantities stored, location, and disposition action.

#### 48 CFR Ch. 1 (10-1-06 Edition)

(b) On contracts that provide for the contractor to retain completed products for further use under the contract or other contracts, such items shall be considered *Government-furnished property* upon acceptance and shall be recorded as required by this subpart.

(c) When completed products are returned to a contractor under the terms of a warranty clause, the contractor shall maintain, by contract, a record containing a description of the items involved, quantities received and returned to the Government, and other pertinent data necessary to determine that a proper accounting for all property has been made.

#### 45.505-11 Records of transportation and installation costs of plant equipment.

(Note: This subsection 45.505-11 does not apply to nonprofit organizations.)

(a) *Transportation costs.* (1) The contractor shall record within the property control system the transportation and installation costs directly borne by the Government for each item of Government-owned plant equipment with an acquisition cost of \$5,000 or more. The administrative contracting officer may require the contractor to provide such recorded costs for use in computing rental charges.

(2) If transportation costs are not included in the price of equipment delivered, the contractor shall contact the property administrator for instructions for obtaining applicable freight data.

(b) *Installation costs.* (1) When the contractor performs installation, the cost shall be computed in accordance with the contractor's accounting system (if the system is acceptable for other contract cost determination purposes) and recorded in the property record.

(2) When installation is subcontracted, the contractor shall record the cost paid to the subcontractor in the property record.

(3) When installation costs are included in the price of equipment delivered to the using location, the property records should be so annotated.



**45.505-12 Records of misdirected shipments.**

The contractor's property control system shall provide the following information regarding each misdirected shipment of Government property received:

- (a) Identity of shipment, such as shipping document or bill of lading.
- (b) Origin of shipment.
- (c) Content (items in the shipment) per shipping documents, if available.
- (d) Location.
- (e) Disposition.

**45.505-13 Records of property returned for rework.**

(a) The contractor shall maintain quantitative records of property returned for processing to assure control from time of receipt through return of the items to the Government. The contractor shall establish item records under its property control system and shall include the information required in 45.505-1.

(b) The records shall specify the quantity of units returned to the Government and the quantity otherwise disposed of with proper authority.

**45.505-14 Reports of Government property.**

(a) The contractor's property control system shall provide annually the total acquisition cost of Government property for which the contractor is accountable under each contract with each agency, including Government property at subcontractor plants and alternate locations. The following classifications (property classifications may be varied to meet individual agency needs) shall be reported:

- (1) Land and rights therein.
- (2) Other real property, including utility distribution systems, buildings, structures, and improvements thereto.
- (3) Plant equipment.
- (4) Special tooling.
- (5) Special test equipment.
- (6) Material.
- (7) Agency peculiar property.

(b) The contractor shall report the information under paragraph (a) as directed by the contracting officer.

[48 FR 42392, Sept. 19, 1983, as amended at 59 FR 11385, Mar. 10, 1994]

**45.506 Identification.**

(a) Upon receipt of Government property, the contractor shall promptly—

- (1) Identify the property in accordance with agency regulations;
- (2) Mark the property in accordance with this section; and
- (3) Record the property in its property control records.

(b)(1) Except for the following, all Government property shall be marked with an indication of Government ownership:

(i) Items issued to individuals for use in their work (e.g., protective clothing or tool crib tools) where adequate physical control is maintained over the items.

(ii) Property of a bulk type, or where its general nature of packing or handling precludes adequate marking.

(iii) Material that is commingled, as authorized by 45.507.

(iv) Where the property administrator agrees that marking is impractical.

(2) Exempted items shall be entered and described on the accountable property records.

(c)(1) In addition to marking with an indication of Government ownership, the following property shall be marked with a serial number in accordance with procedures approved by the property administrator:

- (i) Special tooling.
- (ii) Special test equipment.
- (iii) Components of special test equipment that have an acquisition cost of \$5,000 or more and are incorporated in a manner that makes removal and reutilization feasible and economical.

(iv) Plant equipment.

(v) Accessory or auxiliary equipment associated with a specific item of plant equipment that is recorded on the property records, if necessary to assure return with the associated basic item.

(2) The contractor shall record assigned numbers on all applicable documents pertaining to the property control system.

(3) If the property is located in a standard agency registration system, the contractor may use the property's registration number as the serial number. The contractor should obtain the

registration number through the property administrator from the owning agency.

(d) The markings in paragraphs (b) and (c) of this section shall be—(1) securely affixed to the property, (2) legible, and (3) conspicuous. Examples of appropriate markings are bar coding, decals, and stamping. If marking will damage the property or is otherwise impractical, the contractor shall promptly notify the property administrator and ask for the item to be exempted (see paragraph (b) of this section). Markings shall be removed or obliterated when Government property is sold, scrapped, or donated.

[57 FR 60588, Dec. 21, 1992]

#### **45.507 Segregation of Government property.**

Government property shall be kept physically separate from contractor-owned property. However, when advantageous to the Government and consistent with the contractor's authority to use such property, the property may be commingled—

(a) When the Government property is special tooling, special test equipment, or plant equipment clearly identified and recorded as Government property;

(b) When approved by the property administrator in connection with research and development contracts;

(c) When material is included in a multicontract cost and material control system (however, see 45.505-3(f));

(d) When (1) scrap of a uniform nature is produced from both Government-owned and contractor-owned material and physical segregation is impracticable, (2) scrap produced from Government-owned material is insignificant in consideration of the cost of segregation and control, or (3) Government contracts involved are fixed-price and provide for the retention of the scrap by the contractor; or

(e) When otherwise approved by the property administrator.

#### **45.508 Physical inventories.**

The contractor shall periodically physically inventory all Government property (except materials issued from stock for manufacturing, research, design, or other services required by the contract) in its possession or control

and shall cause subcontractors to do likewise. The contractor, with the approval of the property administrator, shall establish the type, frequency, and procedures. These may include electronic reading, recording and reporting or other means of reporting the existence and location of the property and reconciling the records. Type and frequency of inventory should be based on the contractor's established practices, the type and use of the Government property involved, or the amount of Government property involved and its monetary value, and the reliability of the contractor's property control system. Type and frequency of physical inventories normally will not vary between contracts being performed by the contractor, but may vary with the types of property being controlled. Personnel who perform the physical inventory shall not be the same individuals who maintain the property records or have custody of the property unless the contractor's operation is too small to do otherwise.

[48 FR 42392, Sept. 19, 1983, as amended at 54 FR 25069, June 12, 1989]

#### **45.508-1 Inventories upon termination or completion.**

(a) *General.* Immediately upon termination or completion of a contract, the contractor shall perform and cause each subcontractor to perform a physical inventory, adequate for disposal purposes, of all Government property applicable to the contract, unless the requirement is waived as provided in paragraph (b) below.

(b) *Exception.* The requirement for physical inventory at the completion of a contract may be waived by the property administrator when the property is authorized for use on a follow-on contract; *provided*, that—

(1) Experience has established the adequacy of property controls and an acceptable degree of inventory discrepancies; and

(2) The contractor provides a statement indicating that record balances have been transferred in lieu of preparing a formal inventory list and that the contractor accepts responsibility and accountability for those balances under the terms of the follow-on contract.

## Federal Acquisition Regulation

## 45.509-2

(c) *Listings for disposal purposes.* (Note: This paragraph (c) applies only to nonprofit organizations.)

(1) Standard items that have been modified may be described on listings for disposal purposes as standard items with a general description of the modification.

(2) Items that have been fabricated, such as test equipment, shall be described in sufficient detail to permit a potential user to determine whether they are of sufficient interest to warrant further inspection.

### 45.508-2 Reporting results of inventories.

The contractor shall, as a minimum, submit the following to the property administrator promptly after completing the physical inventory:

(a) A listing that identifies all discrepancies disclosed by a physical inventory.

(b) A signed statement that physical inventory of all or certain classes of Government property was completed on a given date and that the official property records were found to be in agreement except for discrepancies reported.

### 45.508-3 Quantitative and monetary control.

When requested by the contracting officer, the contractor's reports of results of physical inventory shall be prepared on a quantitative and monetary basis and segregated by categories of property.

### 45.509 Care, maintenance, and use.

The contractor shall be responsible for the proper care, maintenance, and use of Government property in its possession or control from the time of receipt until properly relieved of responsibility, in accordance with sound industrial practice and the terms of the contract. The removal of Government property to storage, or its contemplated transfer, does not relieve the contractor of these responsibilities.

### 45.509-1 Contractor's maintenance program.

(a) Consistent with the terms of the contract, the contractor's maintenance program shall provide for—

(1) Disclosure of need for and the performance of preventive maintenance;

(2) Disclosure and reporting of need for capital rehabilitation; and

(3) Recording of work accomplished under the program.

(b) Preventive maintenance is maintenance performed on a regularly scheduled basis to prevent the occurrence of defects and to detect and correct minor defects before they result in serious consequences. An effective preventive maintenance program shall include at least—

(1) Inspection of buildings at periodic intervals to assure detection of deterioration and the need for repairs;

(2) Inspection of plant equipment at periodic intervals to assure detection of maladjustment, wear, or impending breakdown;

(3) Regular lubrication of bearings and moving parts in accordance with a lubrication plan;

(4) Adjustments for wear, repair, or replacement of worn or damaged parts and the elimination of causes of deterioration;

(5) Removal of sludge, chips, and cutting oils from equipment that will not be used for a period of time;

(6) Taking necessary precautions to prevent deterioration caused by contamination, corrosion, and other substances; and

(7) Proper storage and preservation of accessories and special tools furnished with an item of plant equipment but not regularly used with it.

(c) The contractor's maintenance program shall provide for disclosing and reporting the need for major repair, replacement, and other capital rehabilitation work for Government property in its possession or control.

(d) The contractor shall keep records of maintenance actions performed and any deficiencies in the Government property discovered as a result of inspections.

### 45.509-2 Use of Government property.

(a) The contractor's procedures shall be in writing and adequate (1) to assure that Government property will be used only for those purposes authorized in

#### 45.510

the contract and that any required approvals will be obtained, and (2) to provide a basis for determining and allocating rental charges.

(b) With respect to plant equipment with an acquisition value of \$5,000 or more, the procedures, as a minimum, shall—

(1) Establish a minimum level of use below which an analysis of need shall be made and retention justified, except for inactive plants and equipment retained for mobilization (the use level may be established for individual items or families of items, depending upon circumstances of use);

(2) Provide for recording authorized and actual use consistent with the established use levels;

(3) Require periodic analyses of production needs for plant equipment utilization based upon known requirements; and

(4) Provide for prompt reporting to the contracting officer of all plant equipment for which retention is not justified.

[48 FR 42392, Sept. 19, 1983, as amended at 52 FR 30078, Aug. 12, 1987]

#### 45.510 Property in possession of subcontractors.

The contractor shall require any of its subcontractors possessing or controlling Government property to adequately care for and maintain that property and assure that it is used only as authorized by the contract. The contractor's approved property control system shall include procedures necessary for accomplishing this responsibility.

#### 45.511 Audit of property control system.

The Government may audit the contractor's property control system as frequently as conditions warrant. These audits may take place at any time during contract performance, upon contract completion or termination, or at any time thereafter during the period the contractor is required to retain such records. The contractor shall make all such records and related correspondence available to the auditors.

#### 48 CFR Ch. 1 (10-1-06 Edition)

### Subpart 45.6—Reporting, Reutilization, and Disposal

SOURCE: 69 FR 17745, Apr. 4, 2004, unless otherwise noted.

#### 45.600 Scope of subpart.

This subpart establishes policies and procedures for the reporting, reutilization, and disposal of Government property excess to contracts and of property that forms the basis of a claim against the Government (e.g., termination inventory under fixed-price contracts). This subpart does not apply to the disposal of real property or to property for which the Government has a lien or title solely as a result of advance or progress payments that have been liquidated.

#### 45.601 Definitions.

As used in this subpart—

*Common item* means material that is common to the applicable Government contract and the contractor's other work.

*Demilitarization* means rendering a product designated for demilitarization unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

*Precious metals* means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

*Sensitive property* means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability such as classified property, weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

*Surplus property* means excess personal property not required by any Federal agency as determined by the Administrator of General Services (GSA).

#### 45.602 Reutilization of Government property.

This section is applicable to the reutilization, including transfer and donation, of Government property that is not required for continued performance of a Government contract. Except for

## Federal Acquisition Regulation

## 45.602-3

45.602-1, this section does not apply to scrap other than scrap aircraft parts.

### 45.602-1 Inventory disposal schedules.

(a) Plant clearance officers should review and accept, or return for correction, inventory disposal schedules within 10 days following receipt from a contractor. Schedules that are completed in accordance with the instructions for Standard Form 1428 should be accepted.

(b) Plant clearance officers shall—

(1) Use Standard Form 1423 to verify, in accordance with agency procedures, accepted schedules within 20 days following acceptance;

(2) Require a contractor to correct any discrepancies found during verification;

(3) Require a contractor to correct any failure to complete predisposal requirements of the contract; and

(4) Provide the contractor disposition instructions for property identified on an acceptable inventory disposal schedule within 120 days. A failure to provide timely disposition instructions might entitle the contractor to an equitable adjustment.

(c) Contractors shall obtain the plant clearance officer's approval to remove Government property from an inventory disposal schedule.

(1) Plant clearance officers should approve removal when—

(i) The contractor wishes to purchase a contractor-acquired or contractor-produced item at acquisition cost and credit the contract;

(ii) The contractor is able to return unused property to the supplier at fair market value and credit the contract (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices);

(iii) The Government has authorized the contractor to use the property on another Government contract; or

(iv) The contractor has requested continued use of Government property, and the plant clearance officer has consulted with the appropriate program and technical personnel.

(2) If the screening process (*see* 45.602-3) has not begun, the plant clearance officer shall adjust the schedule or return the schedule to the contractor for correction. If screening has begun, the

plant clearance officer shall promptly notify the activity performing the screening that the items should be removed from the screening process.

### 45.602-2 Reutilization priorities.

Plant clearance officers shall initiate reutilization actions using the highest priority method appropriate for the property. Authorized methods, listed in descending order from highest to lowest priority, are—

(a) Reuse within the agency (*see* 45.603 for circumstances under which excess personal property may be abandoned, destroyed, or donated);

(b) Transfer of educationally useful equipment, with GSA approval, to other Federal agencies that have expressed a need for the property;

(c) Transfer of educationally useful equipment to schools and nonprofit organizations (*see* Executive Order 12999, Educational Technology: Ensuring Opportunity For All Children In The Next Century, April 17, 1996), and 15 U.S.C. 3710(i);

(d) Reuse within the Federal Government; and

(e) Donation to an eligible donee designated by GSA.

### 45.602-3 Screening.

The screening period begins upon the plant clearance officer's acceptance of an inventory disposal schedule. The plant clearance officer shall determine whether standard or special screening is appropriate and initiate screening actions.

(a) *Standard screening.* The standard screening period is 46 days.

(1) *First through twentieth day—Screening by the contracting agency.* The contracting agency has 20 days to screen property reported on the inventory disposal schedule for: Other use within the agency; transfer of educationally useful equipment to other Federal agencies that have expressed a need for the property; and transfer of educationally useful equipment to schools and nonprofit organizations if a Federal agency has not expressed a need for the property. Excess personal property, meeting the conditions of 45.603, may be abandoned, destroyed, or donated to public bodies. No later than the 21st day, the plant clearance officer

shall submit four copies of the revised schedules and Standard Form (SF) 120, Report of Excess Personal Property, or an electronic equivalent to GSA (see 41 CFR 102-36.215).

(2) *Twenty-first through forty-sixth day (21 days concurrent screening plus 5 days donation processing)*—(i) *Screening by other Federal agencies.* GSA will normally honor requests for transfers of property on a first-come-first-served basis through the 41st day. When a request is honored, the GSA regional office shall promptly transmit to the plant clearance officer an approved transfer order that includes shipping instructions.

(ii) *Screening for possible donation.* Screening for donation is also completed during days 21 through 41. Property is not available for allocation to donees until after the completion of screening. Days 42 through 46 are reserved for GSA to make such allocation.

(3) *Screening period transfer request.* If an agency receives an intra-agency transfer request during the screening periods described in paragraph (a)(2) of this subsection, the plant clearance officer shall request GSA approval to withdraw the item from the inventory disposal schedule.

(b) *Special screening requirements*—(1) *Special tooling and special test equipment without commercial components.* Agencies shall follow the procedures in paragraph (a) of this subsection. This property owned by the Department of Defense (DoD) or the National Aeronautics and Space Administration (NASA) may be screened for reutilization only within these agencies.

(2) *Special test equipment with commercial components.*—(i) Agencies shall complete the screening required by paragraph (a) of this subsection. If an agency has no further need for the property and the contractor has not expressed an interest in using or acquiring the property by annotating the inventory disposal schedule, the plant clearance officer shall forward the inventory disposal schedule to the GSA regional office that serves the region in which the property is located.

(ii) If the contractor has expressed an interest in using the property on another Government contract, the plant

clearance officer shall contact the contracting officer for that contract. If the contracting officer concurs with the proposed use, the contracting officer for the contract under which the property is accountable shall transfer the property's accountability to that contract. If the contracting officer does not concur with the proposed use, the plant clearance officer shall deny the contractor's request and shall continue the screening process.

(iii) If the property is contractor-acquired or -produced, and the contractor or subcontractor has expressed an interest in acquiring the property, and no other party expresses an interest during agency or GSA screening, the property may be sold to the contractor or subcontractor at acquisition cost.

(3) *Printing equipment.* Agencies shall report all excess printing equipment to the Public Printer, Government Printing Office, North Capitol and H Streets, NW., Washington, DC 20401, after screening within the agency (see 44 U.S.C. 312). If the Public Printer does not express a need for the equipment within 21 days, the agency shall submit the report to GSA for further use and donation screening as described in paragraph (a) of this subsection.

(4) *Non-nuclear hazardous materials, hazardous wastes, and classified items.* These items shall be screened in accordance with agency procedures. Report non-nuclear hazardous materials to GSA if the agency has no requirement for them.

(5) *Nuclear materials.* The possession, use, and transfer of certain nuclear materials are subject to the regulatory controls of the Nuclear Regulatory Commission (NRC). Contracting activities shall screen excess nuclear materials in the following categories:

(i) *By-product material.* Any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to producing or using special nuclear material.

(ii) *Source material.* Uranium or thorium, or any combination thereof, in any physical or chemical form; or ores that contain by weight one-twentieth of 1 percent (0.05 percent) or more of uranium, thorium, or any combination

## Federal Acquisition Regulation

## 45.604-2

thereof. Source material does not include special nuclear material.

(iii) *Special nuclear material.* Plutonium, Uranium 233, Uranium enriched in the isotope 233 or in the isotope 235, any other material that the NRC determines to be special nuclear material (but not including source material); or any material artificially enriched by any nuclear material.

### 45.602-4 Interagency property transfer costs.

Agencies whose property is transferred to other agencies shall not be reimbursed for the property in any manner unless the circumstances of FMR 102-36.285 (41 CFR 102-36.285) apply. The agency receiving the property shall pay any transportation costs that are not the contractor's responsibility and any costs to pack, crate, or otherwise prepare the property for shipment. The contract administration office shall process appropriate contract modifications. To accelerate plant clearance, the receiving agency shall promptly furnish funding data, and transfer or shipping documents to the contract administration office.

### 45.603 Abandonment, destruction or donation of excess personal property.

(a) Plant clearance officers may abandon, destroy, or donate to public bodies excess property that is not sensitive property and does not require demilitarization.

(b) Plant clearance officers may abandon sensitive property that does not require demilitarization, with contractor consent, provided appropriate instructions are provided with respect to the proper care, handling, and disposal of the property.

(c) The Government may donate excess personal property to eligible donees in lieu of abandonment if the Government will not bear any of the costs incident to a donation.

(d)(1) Before abandoning, destroying, or donating excess personal property, the plant clearance officer shall determine in writing that the property does not constitute a danger to public health or welfare and—

(i) The property has no residual monetary value; or

(ii) The estimated cost to sell the property, including advertising, storage, and other costs associated with making the sale, is greater than the probable sale proceeds; and

(2) A Government reviewing official shall approve all written determinations for abandonment and destruction actions.

### 45.604 Disposal of surplus property.

#### 45.604-1 Disposal methods.

(a) Except as provided in paragraphs (b) and (c) of this subsection, surplus property that has completed screening in accordance with 45.602-3(a) shall be sold in accordance with 45.604-3 or abandoned, destroyed, or donated to public bodies in accordance with 45.604-2.

(b) The following property that GSA has declared surplus or not required to be screened by GSA shall be disposed of in accordance with agency procedures:

(1) Classified items.

(2) Nonnuclear hazardous materials or hazardous wastes.

(3) Property that contains precious metals or requires demilitarization.

(4) Government property physically located outside the United States or its possessions (see 40 U.S.C. 701-705).

(c) Nuclear materials (see 45.602-3(b)(5)) shall be disposed of in accordance with NRC or applicable state licenses, applicable Federal regulations, and agency regulations.

#### 45.604-2 Abandonment, destruction, or donation of surplus property.

(a) Plant clearance officers may abandon, destroy, or donate to public bodies surplus property that is not sensitive property, and does not require demilitarization.

(b) Plant clearance officers may abandon sensitive property that does not require demilitarization, with contractor consent, provided appropriate instructions are provided with respect to the proper care, handling, and disposal of the property.

(c) The Government may donate surplus property to eligible donees in lieu of abandonment if the Government will not bear any of the costs incident to donation.

#### **45.604-3**

(d) Before abandoning, destroying, or donating surplus property, the plant clearance officer shall determine in writing that the property does not constitute a danger to public health or welfare and—

(1) The property has no residual monetary value; or

(2) The estimated cost to sell the property, including advertising, storage, and other costs associated with making the sale, is greater than the probable sale proceeds.

#### **45.604-3 Sale of surplus property.**

Policy for the sale of surplus property is contained in the Federal Property Management Regulations, at Part 101-45 (41 CFR part 101-45). Agencies may specify implementing procedures.

#### **45.604-4 Proceeds from sales of surplus property.**

Proceeds of any sale are to be credited to the Treasury of the United States as miscellaneous receipts, unless otherwise authorized by statute or the contract or any subcontract thereunder authorizes the proceeds to be credited to the price or cost of the work (40 U.S.C. 571 and 574).

#### **45.605 Inventory disposal reports.**

The plant clearance officer shall promptly prepare an SF 1424, Inventory Disposal Report, following disposition of the property identified on an inventory disposal schedule or scrap list and the crediting of any related proceeds. The report shall identify any lost, stolen, damaged, destroyed, or otherwise unaccounted for property and any changes in quantity or value of the property made by the contractor after submission of the initial inventory disposal schedule. The report shall be addressed to the administrative contracting officer or, for termination inventory, to the termination contracting officer, with a copy to the property administrator.

#### **45.606 Disposal of scrap.**

##### **45.606-1 Contractor with an approved scrap procedure.**

(a) The contractor may dispose of scrap resulting from production or testing under this contract without

#### **48 CFR Ch. 1 (10-1-06 Edition)**

Government approval. However, if the scrap requires demilitarization or is sensitive property, then the contractor shall submit the scrap on an inventory disposal schedule.

(b) For scrap from other than production or testing, the contractor may prepare scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures) except that inventory disposal schedules shall be submitted for scrap aircraft or aircraft parts and scrap that—

(1) Requires demilitarization;

(2) Is a classified item;

(3) Is generated from classified items;

(4) Contains hazardous materials or hazardous wastes;

(5) Contains precious metals; or

(6) Is dangerous to the public health, safety, or welfare.

##### **45.606-2 Contractor without an approved scrap procedure.**

The contractor shall submit an inventory disposal schedule for all scrap.

##### **45.606-3 Procedures.**

(a) The plant clearance officer shall process inventory disposal schedules in accordance with 45.602-1.

(b) The plant clearance officer shall—

(1) Accept, reject, or return for correction scrap lists within 10 days following receipt;

(2) Accept scrap lists that are consistent with a contractor's approved scrap procedure, correctly identify the contracts under which the scrap is accountable, and correctly identify the scrap's quantity and condition;

(3) Use Standard Form 1423 to verify accepted scrap lists, in accordance with agency procedures;

(4) Require a contractor to correct any discrepancies found during verification; and

(5) Provide disposition instructions to the contractor within 45 days following Government acceptance of a scrap list. If the plant clearance officer does not provide disposition instructions within that period, the contractor may dispose of scrap identified on a scrap list without further Government approval.